

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**UNITED STATES OF AMERICA,**  
Plaintiff,  
vs.  
**KELVIN BESHEARS,**  
Defendant.

CASE NO. 20-cr-00330-YGR

**ORDER DENYING MOTION WITHOUT  
PREJUDICE**

Re: Dkt. No. 58

On July 24, 2020, a criminal complaint issued charging defendant with being a felon in possession of a firearm in violation of 18 U.S.C. Section 922(g)(1). (Dkt. No. 1.) On August 25, 2020, a grand jury returned an indictment, charging defendant with being a felon in possession of a firearm and ammunition. (Dkt. No. 17.) On July 12, 2021, defendant filed the instant motion to dismiss the indictment based on the government's failure to preserve the raw source files of camera footage from Las Brumas, a business in the strip mall where an alleged shooting tangentially related to the indictment occurred. (Dkt. No. 58.) Having carefully considered the papers submitted, the oral argument of the parties, and the admissible evidence in this action, and for the reasons stated on the record at the August 11, 2021 hearing, the Court **DENIES** the motion **WITHOUT PREJUDICE**.


Furthermore, having been advised of defendant's intention to file a motion to suppress evidence, the Court hereby **ORDERS** defendant to file the motion no later than **August 25, 2021**. The government shall respond no later than **September 15, 2021**. Defendant's reply, if any, shall be filed no later than **September 20, 2021**. The Court shall hold a hearing on the motion without taking evidence on **October 4, 2021, at 1:00 p.m.** in person. Based on the arguments, the Court will consider whether an evidentiary hearing is, in fact, required. If, closer to the hearing date, the Court can obtain video access, it will contact the parties to schedule a videoconference.

1 The Court finds that the time between date of this Order and October 4, 2021, should be  
2 excluded under Speedy Trial Act, for effective preparation of counsel, for continuity of counsel,  
3 and to allow defense counsel to prepare the motion to suppress.

4 This Order terminates Docket Number 58.

5 **IT IS SO ORDERED.**

6 Dated: August 12, 2021

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

United States District Court  
Northern District of California